

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:18-cv-00938-TJK**

KOWAL v. UNITED STATES DEPARTMENT OF JUSTICE
et al

Assigned to: Judge Timothy J. Kelly

Case: 1:18-cv-02798-TJK

Cause: 05:552 Freedom of Information Act

Plaintiff

BARBARA KOWAL

Date Filed: 04/20/2018

Jury Demand: None

Nature of Suit: 895 Freedom of
Information Act

Jurisdiction: U.S. Government Defendant

represented by **Donald Todd Doss**
OFFICE OF THE FEDERAL
DEFENDER
Middle District of Florida
201 S. Orange Ave
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Orlando, FL 32801
(407) 648-6338
Email: todd_doss@fd.org
ATTORNEY TO BE NOTICED

V.

Defendant

**UNITED STATES DEPARTMENT OF
JUSTICE**

represented by **Denise M. Clark**
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

DRUG ENFORCEMENT AGENCY
Freedom of Information Request/PA Unit

represented by **Denise M. Clark**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Movant

MICHAEL R. CHAVIS
TERMINATED: 11/13/2018

represented by **Stephen Michael Kissinger**
FEDERAL DEFENDER SERVICES OF
EASTERN TENNESSEE
800 S. Gay Street
Suite 2400
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Date Filed	#	Docket Text
04/20/2018	<u>1</u>	COMPLAINT against ALL DEFENDANTS (Fee Status:Filing Fee Waived) filed by BARBARA KOWAL. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, #

		<u>10</u> Exhibit J, # <u>11</u> Exhibit K, # <u>12</u> Summons, # <u>13</u> Summons, # <u>14</u> Civil Cover Sheet)(Doss, Donald) (Attachment 14 replaced on 4/23/2018) (zmd). (Entered: 04/20/2018)
04/20/2018		Case Assigned to Judge Timothy J. Kelly. (zmd) (Entered: 04/23/2018)
04/24/2018	<u>2</u>	SUMMONS (2) Issued Electronically as to DRUG ENFORCEMENT AGENCY, UNITED STATES DEPARTMENT OF JUSTICE. (Attachments: # <u>1</u> Notice and Consent) (zmd) (Entered: 04/24/2018)
04/24/2018		SUMMONS Not Issued as to U.S. Attorney, U.S. Attorney General. (zmd) (Entered: 04/24/2018)
05/15/2018		MINUTE ORDER: It has come to the Court's attention that Plaintiff has not paid the required filing fee to the Clerk of Court. It is hereby ORDERED that Plaintiff shall, by May 22, 2018, either pay the filing fee or submit an application explaining why the fee should be waived. Signed by Judge Timothy J. Kelly on 5/15/2018. (lctjk2) (Entered: 05/15/2018)
05/15/2018	<u>3</u>	MOTION Waive Filing Fee by BARBARA KOWAL (Doss, Donald) (Entered: 05/15/2018)
05/25/2018		ORDER granting Plaintiff's <u>3</u> Motion to Waive Filing Fee. It is hereby ORDERED that the motion is GRANTED. The Clerk of Court is directed to waive the filing fee in this action. Signed by Judge Timothy J. Kelly on 5/25/2018. (lctjk2) (Entered: 05/25/2018)
07/17/2018	<u>4</u>	SUMMONS (4) Issued as to DRUG ENFORCEMENT AGENCY, UNITED STATES DEPARTMENT OF JUSTICE, U.S. Attorney and U.S. Attorney General. (ztl) (Entered: 07/17/2018)
07/23/2018	<u>6</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 7/20/2018. Answer due for ALL FEDERAL DEFENDANTS by 8/19/2018. (tth) (Entered: 07/24/2018)
07/24/2018	<u>5</u>	ORDER. In order to avoid a mandatory dismissal of this action, on or before August 31, 2018, Plaintiff shall either (1) cause process to be served upon Defendants and file proof of service with the Court, or (2) file a motion to enlarge time to serve process and show good cause, if any, for failure to serve process in a timely fashion. See Order for details. Signed by Judge Timothy J. Kelly on 7/24/2018. (lctjk2) (Entered: 07/24/2018)
07/25/2018	<u>7</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. DRUG ENFORCEMENT AGENCY served on 7/25/2018. (tth) (Entered: 07/26/2018)
07/30/2018	<u>8</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 7/30/2018. RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. UNITED STATES DEPARTMENT OF JUSTICE served on 7/30/2018. (tth) (Entered: 07/31/2018)
08/10/2018	<u>9</u>	NOTICE of Appearance by Denise M. Clark on behalf of All Defendants (Clark, Denise) (Entered: 08/10/2018)
08/10/2018	<u>10</u>	Unopposed MOTION for Extension of Time to <i>Respond to Complaint</i> by DRUG ENFORCEMENT AGENCY, UNITED STATES DEPARTMENT OF JUSTICE (Clark, Denise) (Entered: 08/10/2018)
08/13/2018		MINUTE ORDER granting Defendants' <u>10</u> Motion for Extension of Time. It is hereby ORDERED, for good cause shown, that Defendants' motion is GRANTED. Defendants shall answer or otherwise respond to the complaint by October 19, 2018. Signed by Judge Timothy J. Kelly on 8/13/2018. (lctjk2) (Entered: 08/13/2018)
09/20/2018	<u>11</u>	NOTICE of Appearance by Stephen Michael Kissinger on behalf of MICHAEL R. CHAVIS (Kissinger, Stephen) (Entered: 09/20/2018)
09/20/2018	<u>12</u>	MOTION to Intervene by MICHAEL R. CHAVIS (Attachments: # <u>1</u> Attachment A: FOIA letter to DEA dated Sept. 11, 2018, # <u>2</u> Text of Proposed Order Attachment B:

		Proposed Order)(Kissinger, Stephen) (Entered: 09/20/2018)
10/04/2018	<u>13</u>	Memorandum in opposition to re <u>12</u> MOTION to Intervene filed by DRUG ENFORCEMENT AGENCY, UNITED STATES DEPARTMENT OF JUSTICE. (Clark, Denise) (Entered: 10/04/2018)
10/11/2018	<u>14</u>	REPLY to opposition to motion re <u>12</u> MOTION to Intervene filed by MICHAEL R. CHAVIS. (Attachments: # <u>1</u> Exhibit DOJ response letter)(Kissinger, Stephen) (Entered: 10/11/2018)
10/19/2018	<u>15</u>	ANSWER to Complaint by DRUG ENFORCEMENT AGENCY, UNITED STATES DEPARTMENT OF JUSTICE.(Clark, Denise) (Entered: 10/19/2018)
10/19/2018		MINUTE ORDER: Before the Court in this FOIA case are a complaint and an answer. It is hereby ORDERED that the parties shall meet, confer, and file a joint proposed schedule for briefing or disclosure by November 9, 2018. Signed by Judge Timothy J. Kelly on 10/19/2018. (lctjk2) (Entered: 10/19/2018)
11/09/2018	<u>16</u>	Joint STATUS REPORT by MICHAEL R. CHAVIS, DRUG ENFORCEMENT AGENCY, UNITED STATES DEPARTMENT OF JUSTICE. (Clark, Denise) (Entered: 11/09/2018)
11/09/2018		MINUTE ORDER: In light of the parties' <u>16</u> Joint Status Report, it is hereby ORDERED that the parties shall file a further joint status report, including, if necessary, a proposed briefing schedule, by January 11, 2019. Signed by Judge Timothy J. Kelly on 11/9/2018. (lctjk2) (Entered: 11/09/2018)
11/13/2018		MINUTE ORDER denying without prejudice Movant's <u>12</u> Motion to Intervene. It is hereby ORDERED that Movant Michael Chavis's motion to intervene is DENIED WITHOUT PREJUDICE for failure to include an accompanying pleading as required by Fed. R. Civ. P. 24(c) and LCvR 7(j). Should Movant decide to file a renewed motion to intervene, that motion, in addition to complying with the applicable procedural requirements, shall address the following: (1) whether and how Movant has exhausted his administrative remedies under FOIA such that he may maintain a FOIA cause of action in this Court, and whether such exhaustion is necessary for him to intervene; (2) the effect, if any, of <i>Nuesse v. Camp</i> , 385 F.2d 694 (D.C. Cir. 1967) and its progeny on his right to intervene; and (3) whether Movant's interests in this action would adequately be served by participating as an amicus curiae. Signed by Judge Timothy J. Kelly on 11/13/2018. (lctjk2) (Entered: 11/13/2018)
01/10/2019	<u>17</u>	Unopposed MOTION to Stay <i>in Light of Lapse in Appropriations</i> by DRUG ENFORCEMENT AGENCY, UNITED STATES DEPARTMENT OF JUSTICE (Clark, Denise) (Entered: 01/10/2019)
01/10/2019		MINUTE ORDER: It is hereby ORDERED that the deadline set forth in the Court's Minute Order of November 9, 2018, to submit a joint status report, including, if necessary, a proposed briefing schedule, is extended to February 7, 2019. Signed by Judge Timothy J. Kelly on 1/10/2019. (lctjk2) (Entered: 01/10/2019)
01/29/2019		MINUTE ORDER denying Defendants' <u>17</u> Unopposed Motion to Stay. In light of the restoration of funds to the Department of Justice, it is hereby ORDERED that Defendants' motion is DENIED AS MOOT. Signed by Judge Timothy J. Kelly on 1/29/2019. (lctjk2) (Entered: 01/29/2019)
02/07/2019	<u>18</u>	Joint STATUS REPORT by DRUG ENFORCEMENT AGENCY, UNITED STATES DEPARTMENT OF JUSTICE. (Clark, Denise) (Entered: 02/07/2019)
02/08/2019		MINUTE ORDER: In light of the parties' <u>18</u> Joint Status Report, it is hereby ORDERED that the parties shall file a further joint status report, including, if necessary, a proposed briefing schedule, by April 8, 2019. Signed by Judge Timothy J. Kelly on 2/8/2019. (lctjk2) (Entered: 02/08/2019)
04/08/2019	<u>19</u>	Joint STATUS REPORT by DRUG ENFORCEMENT AGENCY, UNITED STATES DEPARTMENT OF JUSTICE. (Clark, Denise) (Entered: 04/08/2019)
04/09/2019		MINUTE ORDER: In light of the parties' <u>19</u> Joint Status Report, it is hereby ORDERED that the following schedule shall govern further proceedings: Defendants shall file their motion for summary judgment by June 17, 2019; Plaintiff shall file her

		consolidated opposition to Defendants' motion and cross-motion for summary judgment by August 16, 2019; Defendants shall file their consolidated reply and opposition to Plaintiff's cross-motion by October 29, 2019; and Plaintiff shall file her reply by December 20, 2019. Signed by Judge Timothy J. Kelly on 4/9/2019. (lctjk2) (Entered: 04/09/2019)
06/17/2019	<u>20</u>	MOTION for Summary Judgment by DRUG ENFORCEMENT AGENCY, UNITED STATES DEPARTMENT OF JUSTICE (Attachments: # <u>1</u> Declaration Hertel Declaration, # <u>2</u> Exhibit June 15, 2015 letter, # <u>3</u> Exhibit June 25, 2015 Letter, # <u>4</u> Exhibit June 29, 2015 letter, # <u>5</u> Exhibit June 30, 2015 letter, # <u>6</u> Exhibit Sept. 30, 2015 letter, # <u>7</u> Exhibit Oct. 22, 2015 letter, # <u>8</u> Exhibit Dec 15, 2015 letter, # <u>9</u> Exhibit Mar 28, 2016 letter, # <u>10</u> Exhibit Dec 10 2015 letter, # <u>11</u> Exhibit Apr 14, 2016 letter, # <u>12</u> Exhibit Nov. 5, 2018 email, # <u>13</u> Exhibit Feb. 15, 2019 letter, # <u>14</u> Exhibit Vaughn Index 1, # <u>15</u> Exhibit Vaughn Index 2)(Clark, Denise) (Entered: 06/17/2019)
08/14/2019	<u>21</u>	MOTION for Extension of Time to File a <i>Combined Opposition to Defendant's Motion for Summary Judgment and Cross-Motion for Summary Judgment</i> by BARBARA KOWAL (Attachments: # <u>1</u> Text of Proposed Order Proposed Order)(Doss, Donald) (Entered: 08/14/2019)
08/16/2019		MINUTE ORDER granting Plaintiff's <u>21</u> Unopposed Motion for Extension of Time. It is hereby ORDERED, for good cause shown, that Plaintiff's motion is GRANTED. The following schedule shall govern further proceedings: Plaintiff shall file her consolidated opposition to Defendants' <u>20</u> Motion for Summary Judgment and cross-motion for summary judgment by August 30, 2019; Defendants shall file their consolidated reply and opposition to Plaintiff's cross-motion by November 12, 2019; and Plaintiff shall file her reply by January 3, 2020. Signed by Judge Timothy J. Kelly on 8/16/2019. (lctjk2) (Entered: 08/16/2019)
08/16/2019		Set/Reset Deadlines: Reply to Cross Motions due by 1/3/2020. (zcal) (Entered: 08/16/2019)
08/29/2019	<u>22</u>	Unopposed MOTION for Extension of Time to <i>File A Combined Opposition to Defendant's Motion for Summary Judgment and Cross-Motion for Summary Judgment</i> by BARBARA KOWAL (Attachments: # <u>1</u> Proposed Order)(Doss, Donald) (Entered: 08/29/2019)
08/29/2019		MINUTE ORDER granting in part Plaintiff's <u>21</u> Unopposed Motion for Extension of Time. It is hereby ORDERED, for good cause shown, that Plaintiff's motion is GRANTED IN PART. The following schedule shall govern further proceedings: Plaintiff shall file her consolidated opposition to Defendants' <u>20</u> Motion for Summary Judgment and cross-motion for summary judgment by September 13, 2019; Defendants shall file their consolidated reply and opposition to Plaintiff's cross-motion by November 26, 2019; and Plaintiff shall file her reply by January 17, 2020. Signed by Judge Timothy J. Kelly on 8/29/2019. (lctjk2) (Entered: 08/29/2019)
09/03/2019		Set/Reset Deadlines: Plaintiff's cross-motion for summary judgment due by 9/13/2019. (kh) (Entered: 09/03/2019)